

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

WALTER LUIS AGOSTO ALGARIN

DEBTOR

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CASE NO. 11-06929 ESL

CHAPTER 13

**DEBTOR'S MOTION REQUESTING WITHDRAWAL OF  
MOTION FOR CONTINUANCE OF AUTOMATIC STAY  
PURSUANT TO 11 USC SECTION 362(c)(3)**

TO THE HONORABLE COURT:

NOW COMES, **WALTER LUIS AGOSTO ALGARIN**, debtor, through the undersigned attorney, and very respectfully states and prays as follows:

1. On August 18, 2011, the debtor filed a motion for continuance of the automatic stay pursuant to 11 USC Section 362(c)(3), docket no. 7.
2. The Court has scheduled a hearing for September 13, 2011, at 9:00 AM to consider the debtor's motion for continuance of automatic stay, docket no. 8.
3. On August 13, 2011, secured creditor Banco Santander de Puerto Rico ("Santander") filed an opposition to debtor's request for continuance of the automatic stay, docket no. 13.
4. The debtor respectfully submits that upon reviewing Santander's opposition to debtor's request for the continuance of the automatic stay and upon further review of Section 362(c)(3), 11 U.S.C. Section 362(c)(3), it is clear that said Section 362(c)(3) is inapplicable to the case at bar, thus, the debtor respectfully requests to withdraw the same, docket no. 7.

5. Section 362(c)(3), 11 U.S.C. Section 362(c)(3), states as follows:

“(c) Except as provided in subsections (d), (e), (f), and (h) of this section –

. . .

(3) if a single or joint case is filed by or against the debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period, **but was dismissed**, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) –

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30<sup>th</sup> day after the filing of the later case;

(B) on the motion of a party in interest for continuation of the automatic stay, and upon notice and a hearing, the court may extend the stay . . . “. 11 USC Section 362(c)(3) (emphasis supplied).

6. The debtor respectfully submits that he had a pending case within the preceding 1-year period, but the same was not dismissed. The debtor's preceding case was originally filed as a Chapter 13 and converted to a Chapter 7, and the debtor received a discharge under Chapter 7 entered on July 14, 2011. *In re Walter Luis Agosto Algarin & Maritza Cardona Homs*, 09-07084 ESL, Bankruptcy Court for the District of Puerto Rico.

7. Based on the aforementioned, the debtor respectfully requests this motion be granted and the Court enter an Order withdrawing the *Debtor's Motion for Continuation of the Automatic Stay Pursuant to 11 USC Section 362(c)(3)*, docket no. 7. The debtor further requests the Court to set aside the hearing scheduled for September 13, 2011, at 9:00 AM, docket no. 8.

**WHEREFORE**, debtor respectfully requests this Honorable Court grant the present motion and Order the withdrawal of *Debtor's Motion for Continuation of the Automatic Stay Pursuant to 11 USC Section 362(c)(3)*, docket no. 7, and Order that the hearing scheduled for September 13, 2011, docket no. 8, be set aside.

**I CERTIFY** that on this same date a copy of this motion was filed with the Clerk of the Court using the CM/ECF filing system which will send notice of same to the Chapter 13 Trustee and all system participants; I also certify that a copy of this motion was sent via US Mail to Luis M Suarez Lozada, Esq., Counsel for Banco Santander de Puerto Rico, PO Box 192333 San Juan PR 00919-2333; the debtor Walter Luis Agosto Algarin, Suite 273 Box 4956 Caguas PR 00726.

**RESPECTFULLY SUBMITTED.** In San Juan, Puerto Rico, this 9<sup>th</sup> day of September, 2011.

/s/R. Figueroa Carrasquillo  
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